IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

MONDAY, THE 11TH DECEMBER 2006 / 20TH AGRAHAYANA 1928

OP.No. 13769 of 2002(L)

PETITIONER:

M.P.KURIAKOSE,TRADE INSTRUCTOR GRADE II,
CIVIL ENGINEERING DEPARTMENT,MAR ATHANASIUS
COLLEGE OF ENGINEERING,KOTHAMANGALAM.

BY ADV. SRI.K.JAJU BABU
SMT.M.U.VIJAYALAKSHMI

RESPONDENTS:

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1. **STATE OF KERALA,REPRESENTED BY SECRETARY TO GOVERNMENT OF KERALA,HIGHER EDUCATION, GOVERNMENT SECRETARIAT,TRIVANDRUM.**

2. **THE DIRECTOFR OF TECHNICAL EDUCATION, TRIVANDRUM.**

3. **MAR ATHANESIUS COLLEGE OF ENGINEERING KOTHAMANGALAM 686666,REPRESENTED BY CHAIRMAN AND SECRETARY.**

BY GOVERNMENT PLEADER SMT.K.R.DEEPA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 11/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NOS.23069/02 ,5900/02,6269/06 IN OP.13769/02

DISMISSED

11.12.2006 **SD/- KURIAN JOSEPH, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE REQUEST MADE BY THE 3RD RESPONDENT TO THE GOVERNMENT VIDE NO.B1/951-91 DT.21.4.1992.

EXT.P2:- COPY OF THE REQUEST MADE BY THE 3RD RESPONDENT TO THE GOVERNMENT VIDE NO.B1-951/8/91 DT.12.10.93.

EXT.P3:- COPY OF THE RECOMMENDATION LETTER SENT BY THE 2ND RESPONDENT TO THE GOVERNMENT VIDE NO.DP2-20568/94 DT.15.11.94.

EXT.P4:- COPY OF THE JUDGMENT DT.7.3.95 IN WA. 1150/94-A BY THIS HONOURABLE COURT.

EXT.P5:- COPY OF THE ORDER NO.G.O.(MS) 184/2000/H.EDN. DT.30.11.2000 ISSUED BY THE GOVERNMENT.

EXT.P6:- COPY OF THE ORDER DT.15.6.85 ISSUED BY THE 1ST RESPONDENT.

EXT.P7:- COPY OF THE ORDER NO.E3/55005//05/COLL.EDN.DT.4.1.06 ISSUED BY THE DIRECTOFR OF COLLEGIATE EDUCATION.

/TRUE COPY/

tss

KURIAN JOSEPH, J.

O.P. NO. 13769 OF 2002

Dated this the 11th day of December, 2006

J U D G M E N T

The writ petition is filed with the following prayers:-

> "(i) To issue a writ of mandamus or other appropriate writ, order or direction, directing the respondents 1 and 2 to sanction two posts of Instructor Gr.II and one post of Draftsman Grade I in the Civil Engineering Department of the 3rd respondent as requested and recommended by Exts. P1 to P3 forthwith.
>
> (ii) To declare that Ext.P5 is not in confirmity with the direction given by this Hon'ble Court in Ext.P4 judgment and quash the same by issuing a writ of certiorari or other appropriate writ, order or direction."

2 Going by the counter affidavit, the stand taken by the Director as observed from Para.7 onwards is that the issue is to be considered afresh by the Government since according to the Director, the strength of Inspector Gr.I and Gr.II has to be increased in view of the sanctioning of additional post of Lecturers. It is seen that there is Ex.P3 recommendation by the Director of Technical Education to the Government. In Ext.P4 judgment this Court directed the Government to fix the staff pattern of private Engineering Colleges. Ext.P5 is the order in the matter. There is no reference to Ext.P3 recommendation made by the Director. In the

meanwhile, the Director of Technical Education has issued staff fixation in the case of private Arts and Science Colleges as per Ext.P7. According to the petitioner, there has to be a similar staff fixation in the case of private Engineering Colleges also. Since Ext.P7 is a subsequent development and since there is no reference to Ext.P3, it is only appropriate that the petitioner approaches the Government for reconsideration of Ext.P5. The writ petition is hence disposed of as follows:

In the event of either the petitioner or the 3rd respondent moving the Government in view of the submissions noted in this judgment as above, the matter will be duly considered by the Government, with notice to the petitioner and the 3rd respondent and appropriate orders thereon in accordance with law in the matter will be passed adverting to the contentions taken by the petitioner/3rd respondent, within another four months.

KURIAN JOSEPH, JUDGE

vps

KURIAN JOSEPH, JUDGE

OP NO.13769/02

JUDGMENT

11th DECEMBER, 2006